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Sectoral policy questions: preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin

Report of the Second Committee

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I. Introduction

1. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-eighth session the item entitled "Sectoral policy questions: preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin" and to allocate it to the Second Committee.

2. The Second Committee considered the item at its 8th, 14th and 37th meetings, on 13 and 17 October and 11 December 2003. An account of the Committee's discussion is contained in the relevant summary records (A/C.2/58/SR.8, 14 and 37). Attention is also drawn to the general debate held by the Committee at its 2nd to 6th meetings, from 6 to 9 October (see A/C.2/57/SR.2-6).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin (A/58/125);

(b) Letter dated 14 July 2003 from the Permanent Representative of Morocco to the United Nations addressed to the Secretary-General, transmitting the final communiqué adopted by the Chairmen/Coordinators of the Chapters of the Group of 77 at their thirty-fourth meeting, held at Geneva on 26 and 27 June 2003 (A/58/204);

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(c) Letter dated 1 October 2003 from the Permanent Representative of Morocco to the United Nations addressed to the Secretary-General, transmitting the ministerial declaration adopted by the Ministers for Foreign Affairs of the Group of 77 and China at their twenty-seventh annual meeting, held at United Nations Headquarters on 25 September 2003 (A/58/413);

(d) Letter dated 20 October 2003 from the Permanent Representative of Honduras to the United Nations addressed to the Secretary-General (A/C.2/58/7).

4. At the 8th meeting, on 13 October, the Officer-in-Charge of the Crime Conventions Section of the United Nations Office on Drugs and Crime made an introductory statement (see A/C.2/58/SR.8).

II. Consideration of draft resolutions A/C.2/58/L.2 and A/C.2/58/L.52

5. At the 14th meeting, on 17 October, the representative of Morocco, on behalf of the States Members of the United Nations that are members of the Group of 77 and China, introduced a draft resolution entitled "Preventing and combating corrupt practices and transfer of funds and assets of illicit origin and returning such funds and assets to the countries of origin" (A/C.2/57/L.2). In introducing the draft resolution, the representative of Morocco orally revised operative paragraph 7 by inserting the words "where appropriate" after the word "cooperation". The draft resolution, as orally revised, read as follows:

"*The General Assembly*,

"*Recalling* its resolutions 54/205 of 22 December 1999 on the prevention of corrupt practices and illegal transfer of funds, 55/61 of 4 December 2000 on an effective international instrument against corruption, 55/25 of 15 November 2000 on the United Nations Convention against Transnational Organized Crime, 55/188 of 20 December 2000 on preventing and combating corrupt practices and illegal transfer of funds and repatriation of such funds to the countries of origin, 56/186 of 21 December 2001 on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such funds to the countries of origin and 57/244 of 20 December 2002 on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such funds to the countries of origin,

"*Recalling also* the Monterrey Consensus of the International Conference on Financing for Development which underlined that fighting corruption at all levels is a priority, and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development,

"*Deeply concerned* with the seriousness of problems posed by continuing corrupt practices and transfer of funds and assets of illicit origin and return of such funds and assets to the countries of origin, which may endanger the stability and security of societies, undermine the values of democracy and civil ethics and jeopardize social, economic and political development, in particular when an inadequate national and international response leads to impunity,

"*Taking note* of the global study on the transfer of funds of illicit origin, submitted to the Ad Hoc Committee for the Negotiation of a Convention against Corruption, which noted the substantial amounts of money involved resulting in economic hardships for countries that had been victims of such corruption and the enormous obstacles to recovery,

"*Noting* that Member States have different institutional arrangements and capacities to ensure the implementation of legislation on preventing corrupt practices and transfer of funds and assets of illicit origin and returning such funds and assets to the countries of origin,

"*Considering* that the prevention of corrupt practices and transfer of funds and assets of illicit origin and the return of such funds and assets to the countries of origin have not been adequately regulated by national legislations and international legal instruments,

"*Emphasizing* the responsibilities of all Governments to enact laws aimed at preventing and combating corrupt practices and transfer of funds and assets of illicit origin and return of such funds and assets to the countries of origin,

"1. *Takes note* of the report of the Secretary-General on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin;

"2. *Welcomes* the entry into force of the United Nations Convention against Transnational Organized Crime;

"3. *Notes with appreciation* the completion of the work of the Ad Hoc Committee for the Negotiation of a Convention against Corruption;

"4. *Encourages* all Member States to participate in the high-level political Conference for the purpose of signing the United Nations Convention against Corruption, to be held at Merida, Mexico, from 9 to 11 December 2003;

"5. *Also encourages* all Member States that have not yet done so to enact laws to prevent and combat corrupt practices and the transfer of illicit funds and assets and for the return of such funds and assets to the countries of origin;

"6. *Further encourages* all Member States that have not yet done so to require financial institutions properly to implement comprehensive due diligence and vigilance programmes that could facilitate transparency and prevent the placement of illicit funds;

"7. *Encourages* subregional and regional cooperation, where appropriate, in the efforts to prevent and combat corrupt practices and the transfer of funds and assets of illicit origin and for the return of such funds and assets to the countries of origin;

"8. *Calls* for further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and address the transfer of funds of illicit origin, as well as to return such funds and assets to the countries of origin;

"9. *Requests* the international community to support national efforts by, among others, providing technical assistance, strengthening human and institutional capacity to prevent corrupt practices and the transfer of funds of illicit origin and assets and returning such funds and assets to the countries of origin and formulating strategies for mainstreaming ethics and integrity in both the public and private sector;

"10. *Requests* the Secretary-General to report to the General Assembly at its fifty-ninth session on the progress of implementation on this matter;

"11. *Decides* to include in the provisional agenda of its fifty-ninth session a sub-item entitled 'Preventing and combating corrupt practices and transfer of funds and assets of illicit origin and returning such funds and assets to the countries of origin'."

6. At the 37th meeting, on 11 December, the Vice-Chairperson of the Committee, Ulrika Cronenberg-Mossberg (Sweden), introduced a draft resolution entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin" (A/C.2/58/L.52), which she submitted on the basis of informal consultations held on draft resolution A/C.2/58/L.2.

7. At the same meeting, the Committee adopted draft resolution A/C.2/58/L.52 (see para. 9).

8. In the light of the adoption of draft resolution A/C.2/58/L.52, draft resolution A/C.2/58/L.2 was withdrawn by its sponsors.

III. Recommendations of the Second Committee

9. The Second Committee recommends to the General Assembly the adoption of the following draft resolution:

Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin

The General Assembly,

Recalling its resolutions 54/205 of 22 December 1999 and 56/186 of 21 December 2001 and 57/244 of 20 December 2002, both on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such funds to the countries of origin,

Recalling also the Monterrey Consensus of the International Conference on Financing for Development,[1] which underlined that fighting corruption at all levels is a priority, and the Johannesburg Plan of Implementation of the World Summit on Sustainable Development,[2]

Deeply concerned by the seriousness of problems posed by continuing corrupt practices and transfer of assets of illicit origin and return of such funds and assets to the countries of origin, which may endanger the stability and security of societies, undermine the values of democracy and civil ethics and jeopardize sustainable and political development, in particular when an inadequate national and international response leads to impunity,

Taking note of the global study on the transfer of funds of illicit origin, especially funds derived from acts of corruption, submitted to the Ad Hoc Committee for the Negotiation of a Convention against Corruption,[3] which noted the substantial amounts of money involved, the economic hardships for countries victims of such corruption and the enormous obstacles to recovery faced by those countries,

Noting that Member States have different institutional arrangements and capacities to ensure the implementation of legislation on preventing corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin,

Considering that the prevention of corrupt practices and transfer of assets of illicit origin and the return of such assets to the countries of origin have not been adequately regulated by all national legislations and international legal instruments,

Emphasizing the responsibilities of all Governments to enact laws aimed at preventing and combating corrupt practices and transfer of assets of illicit origin and return of such assets to the countries of origin,

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[1] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[2] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

[3] A/AC.261/12.

1. *Takes note* of the report of the Secretary-General on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin;[4]

2. *Welcomes* the entry into force of the United Nations Convention against Transnational Organized Crime;[5]

3. *Notes with appreciation* the report of the Ad Hoc Committee for the Negotiation of a Convention against Corruption on the work of its first to seventh sessions;[6]

4. *Welcomes* the adoption of the United Nations Convention against Corruption;[7]

5. *Encourages* all Member States to participate at a high level, including at the ministerial level, in the high-level political conference for the purpose of signing the United Nations Convention against Corruption, to be held at Merida, Mexico, from 9 to 11 December 2003;

6. *Invites* all Member States and competent regional economic integration organizations to sign, ratify and fully implement the United Nations Convention against Corruption as soon as possible in order to ensure its rapid entry into force;

7. *Also encourages* all Member States that have not yet done so to enact laws to prevent and combat corrupt practices and the transfer of illicitly acquired assets and for the return of such assets to the countries of origin, in accordance with the United Nations Convention against Corruption;

8. *Further encourages* all Member States that have not yet done so to require financial institutions properly to implement comprehensive due diligence and vigilance programmes that could facilitate transparency and prevent the placement of illicitly acquired funds;

9. *Encourages* subregional and regional cooperation, where appropriate, in the efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin and for the return of such assets to the countries of origin;

10. *Calls* for further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and address the transfer of assets of illicit origin, as well as to return such assets to the countries of origin;

11. *Requests* the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing corrupt practices and the transfer of assets of illicit origin, returning such assets to the countries of origin and formulating strategies for mainstreaming and promoting transparency and integrity in both the public and private sector;

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[4] A/58/125.

[5] Resolution 55/25, annex I.

[6] A/58/422.

[7] Resolution 58/4, adopted by the General Assembly on 31 October 2003.

12. *Requests* the Secretary-General to submit a report to the General Assembly at its fifty-ninth session on the implementation of the present resolution;

13. *Decides* to include in the provisional agenda of its fifty-ninth session a sub-item entitled "Preventing and combating corrupt practices and transfer of funds and assets of illicit origin and returning such funds and assets to the countries of origin".